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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-010, C-570-011, A-583-853

Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and from Taiwan: Notice of Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: Based on a request from PulseTech Products Corporation ("PulseTech") the Department of Commerce (the "Department") is initiating changed circumstances reviews to consider the possible revocation, in part, of the antidumping duty ("AD") order on certain crystalline silicon photovoltaic products from Taiwan and the AD and countervailing duty ("CVD") orders on certain crystalline silicon photovoltaic products from the People's Republic of China ("PRC") (together, the "Orders") with respect to solar panels incorporated in certain battery charging and maintaining units, as described below.

DATES: Effective Date: (Insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Magd Zalok, Robert Bolling, or Howard Smith, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4162, (202) 482-3434, or (202) 482-5193, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 18, 2015, the Department published an AD order on certain crystalline silicon photovoltaic products from Taiwan,¹ and AD and CVD orders on certain crystalline silicon photovoltaic products from the PRC.²

On April 20, 2016, PulseTech Products Corporation (“PulseTech”), an importer of the subject merchandise, requested revocation, in part, of the Orders pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (“the Act”) and 19 CFR 351.216(b),³ with respect to certain solar panels. In subsequent submissions filed between May 12, 2016, and September 2, 2016, PulseTech modified the description of one of the products covered by its request, ultimately describing the product as solar panels that are:

- (1) less than 300,000 mm² in surface area; (2) less than 27.1 watts in power; (3) coated across their entire surface with a polyurethane doming resin; and (4) joined to a battery charging and maintaining unit (which is an acrylonitrile butadiene styrene (“ABS”) box that incorporates a light emitting diode (“LED”)) by coated wires that include a connector to permit the incorporation of an extension cable. The battery charging and maintaining unit utilizes high-frequency triangular pulse waveforms designed to maintain and extend the life of batteries through the reduction of lead sulfate crystals. The above-described battery charging and maintaining unit is currently available under the registered trademark “SolarPulse.”

¹ See *Certain Crystalline Silicon Photovoltaic Products from Taiwan: Antidumping Duty Order*, 80 FR 8596 (February 18, 2015).

² See *Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 8592 (February 18, 2015).

³ See April 20, 2016 letter from PulseTech Products Corporation Re: Resubmission of Requests for Changed Circumstances Review – Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China and from Taiwan (“PulseTech Request for CCRs”).

On September 6, 2016, SolarWorld Americas, Inc. (“Petitioner”) stated that it agrees with the scope exclusion language proposed by PulseTech for the above-referenced solar panels incorporated into certain battery charging and maintaining units.⁴

PulseTech also requested revocation, in part, of the Orders with respect to other stand-alone solar panels. However, PulseTech withdrew its request for CCRs with respect to the stand-alone panels.⁵

Scope of the Antidumping and Countervailing Duty Orders on Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China

The merchandise covered by these orders are modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of these orders, subject merchandise includes modules, laminates and/or panels assembled in the PRC consisting of crystalline silicon photovoltaic cells produced in a customs territory other than the PRC.

Subject merchandise includes modules, laminates and/or panels assembled in the PRC consisting of crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Excluded from the scope of these orders are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of these orders are modules, laminates and/or panels

⁴ See September 6, 2016 letter from Petitioner Re: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China and Taiwan: Changed Circumstances Review Request – Letter of No Opposition.

⁵ See PulseTech’s October 28, 2016, submission.

assembled in the PRC, consisting of crystalline silicon photovoltaic cells, not exceeding 10,000mm² in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one module, laminate and/or panel is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all modules, laminates and/or panels that are integrated into the consumer good. Further, also excluded from the scope of these orders are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, laminates and/or panels, from the PRC.⁶

Merchandise covered by these orders is currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of these orders is dispositive.

Scope of the Antidumping Duty Order on Certain Crystalline Silicon Photovoltaic Products from Taiwan

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials.

⁶ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 77 FR 73018 (December 7, 2012); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Countervailing Duty Order*, 77 FR 73017 (December 7, 2012).

Subject merchandise includes crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Modules, laminates, and panels produced in a third-country from cells produced in Taiwan are covered by this order. However, modules, laminates, and panels produced in Taiwan from cells produced in a third-country are not covered by this order.

Excluded from the scope of this order are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of this order are crystalline silicon photovoltaic cells, not exceeding 10,000mm² in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Further, also excluded from the scope of this order are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the PRC.⁷ Also excluded from the scope of this order are modules, laminates, and panels produced in the PRC from crystalline silicon

⁷ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 77 FR 73018 (December 7, 2012); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Countervailing Duty Order*, 77 FR 73017 (December 7, 20 12).

photovoltaic cells produced in Taiwan that are covered by an existing proceeding on such modules, laminates, and panels from the PRC.

Merchandise covered by this order is currently classified in the HTSUS under subheadings 8501 .61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this order is dispositive.

Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Orders in Part

Pursuant to section 751(b) of the Act, the Department will conduct a changed circumstances review upon receipt of a request from an interested party⁸ which shows changed circumstances sufficient to warrant a review of an order.⁹ Based on the information provided by PulseTech, the Department has determined that there exist changed circumstances sufficient to warrant changed circumstances reviews of the AD order on certain crystalline silicon photovoltaic products from Taiwan, and the AD and CVD orders on certain crystalline silicon photovoltaic products from the PRC. Also, because this changed circumstances request was filed less than 24 months after the date of publication of notice of the final determinations in the investigations covering certain crystalline silicon photovoltaic products from the PRC and Taiwan, pursuant to 19 CFR 351.216(c), the Department must determine whether good cause for the conduct of these reviews exists. We find that Petitioner's affirmative statement of no interest in the Orders with respect to solar panels incorporated into certain battery-charging and maintaining units, as described above, constitutes good cause for the conduct of these reviews.

⁸ PulseTech stated in its Request for CCRs and its May 2, 2016 entry of appearance that it is an importer of subject merchandise and as such is an interested party pursuant to 19 CFR 351.102(b)(29).

⁹ See 19 CFR 351.216.

Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i) provide that the Department may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order, in whole or in part. In addition, in the event the Department determines that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results. In its administrative practice, the Department has interpreted “substantially all” to mean producers accounting for at least 85 percent of the total U.S. production of the domestic like product covered by the order.¹⁰

Petitioner states that it agrees with the exclusion request; however, because Petitioner did not indicate whether it accounts for substantially all of the domestic production of certain crystalline silicon photovoltaic products, we are providing interested parties with the opportunity to address the issue of domestic industry support with respect to this requested partial revocation of the Orders, and we are not combining this notice of initiation with a preliminary determination pursuant to 19 CFR 351.221(c)(3)(ii). As explained below, interested parties will have an opportunity to address the requested partial revocation for solar panels incorporated into certain battery-charging and maintaining units, described above.

Public Comment

Interested parties are invited to provide comments and/or factual information regarding these changed circumstances reviews, including comments concerning industry support.

Comments and factual information may be submitted to the Department no later than 14 days

¹⁰ See, e.g., *Certain Cased Pencils From the People’s Republic of China: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review, and Intent To Revoke Order in Part*, 77 FR 42276 (July 18, 2012), unchanged in *Certain Cased Pencils From the People’s Republic of China: Final Results of Antidumping Duty Changed Circumstances Review, and Determination To Revoke Order, in Part*, 77 FR 53176 (August 31, 2012).

after the date of publication of this notice. Rebuttal comments and rebuttal factual information may be filed with the Department no later than 10 days after the comments and/or factual information are filed.¹¹ All submissions must be filed electronically using Enforcement and Compliance's AD and CVD Centralized Electronic Service System ("ACCESS").¹² An electronically filed document must be received successfully in its entirety by ACCESS, by 5 p.m. Eastern Time on the due dates set forth in this notice.

The Department will issue the preliminary results of these changed circumstances reviews, which will set forth the factual and legal conclusions upon which the preliminary results are based, and, in accordance with 19 CFR 351.221(c)(3)(i), will include a description of any action proposed because of those results. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of these reviews. In accordance with 19 CFR 351.216(e), the Department intends to issue the final results of these AD and CVD changed circumstance reviews within 270 days after the date on which the reviews are initiated, or within 45 days if all parties to the proceeding agree to the outcome of the review.

This initiation is published in accordance with section 751(b)(1) of the Act and 19 CFR 351.221(b)(1).

Dated: November 2, 2016

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

¹¹ Submission of rebuttal factual information must comply with 19 CFR 351.301(b)(2).

¹² See, generally, 19 CFR 351.303.

